

Internal Revenue Service

Department of the Treasury

CERTIFIED MAIL

Date: 101090

Employer Identification Number:

Form Number:

1120

Tax Year:

December 31, 1983 & Following
Key District:

Person to Contact:

Contact Telephone Number:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

You are not organized and operated exclusively for any purpose set forth in Section 501(c)(3).

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

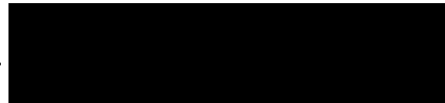
If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

A solid black rectangular box used to redact the signature of the Associate Chief.

Associate Chief,
Appeals Office

Internal Revenue Service

Department of the Treasury
P.O. Box 163
Baltimore, MD 21203

District
Director

Person to Contact

Telephone Number

Refer Reply to

Date SEP 25 1984

Dear Applicant:

We have considered your application of exemption from Federal income tax as a church under sections 501(c)(3) and 170(b)(1)(A)(i) of the Internal Revenue Code.

You indicated that you were formed on [REDACTED], under the laws of [REDACTED] for religious purposes and have provided for the adequate distribution of your assets upon dissolution.

Your founder claims ordination as a minister and conducts your worship service within his residence. You have refused to provide additional information about your members or others who may worship with you.

The financial information submitted shows a \$[REDACTED] contribution from your founder but does not detail what use has been made of these founders' donations.

Section 501(c)(3) of the Code provides for the exemption of organizations organized and operated exclusively for religious, charitable, educational and other purposes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations explains that the words "private shareholder or individual" refer to persons having a person and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated persons, the creator or his family or persons controlled, directly or indirectly, by such private interests.

In your case, your founder spends approximately [REDACTED] hours a week on activities related to your organization and is also engaged in a for profit occupation on a full time basis.

[REDACTED]

You have not established that monies are being paid for true charitable purposes of helping the needy and that these funds do not benefit the founder and his family.

We conclude, therefore, that your primary function is to serve the private interests of your creators and members rather than a public interest and therefore you are not operated exclusively for a religious purpose.

Accordingly, we have determined that you do not qualify for recognition of exemption under section 501(c)(3) of the Code.

We have also considered whether your organization qualifies as a "church" as that term is used in section 170(b)(1)(A)(i) of the Code.

Section 170(b)(1)(A)(i) of the Code provides for the deductibility of contributions to "a church or a convention or association of churches". Neither the Code nor the Income Tax Regulations defines the phrase "church or convention or association of churches". Therefore, what is a "church" for purposes of the Internal Revenue Code must be interpreted in light of the common understanding of the word. In the case of Vaughn V. Chapman and Mildred C. Chapman vs Commissioner of Internal Revenue, 48 T.C. 350 (1967), the Tax Court pointed out that not every religious organization is a church and that Congress did not intend that the term "church" be used in its generic or universal sense. The Court said the test as envisioned by Congress is whether an organization is engaged in carrying out church functions.

In American Guidance Foundation, Inc. vs U.S., 490 F. Supp 304 (D.D.C. 1980), the Court said that at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instruction and in its promulgation of doctrine. In this case, the Court concluded that because the founder conducted services in his private residence the organization did not meet the criteria intended by Congress since the worship within the residence did not meet the public purpose requirement to be recognized as a church within the meaning of the Code.

The fact that your organization's founder is its director, that your organization has few members and that your organization's address is the residence of your founder and his spouse, all indicate that your organization lacks a distinct legal existence separate from your founders or ministers.

You have no regular congregation nor do you have an organization of ordained ministers ministering to their own congregations. You have neither a religious history nor a literature that is distinctively your own. When you do conduct services it is not in an established place set aside for worship but the residence of your founder. You have no schools or educational requirements for the preparation of your ministers nor any Sunday school for the requirements for instruction of the young.

[REDACTED]

Furthermore, whereas churches are operated for exclusively religious and charitable purposes rather than for the benefit of their founders, your organization, as has been discussed above appears to be operated by your founder essentially for his private interests.

Therefore, because you do not perform the functions of a "church" and because you possess few of the characteristics commonly associated with a "church", we conclude that your organization does not come within the meaning of the term "church" as that term was intended by Congress in the context of the Internal Revenue Code and that you do not qualify as a "church" within the meaning of section 170(b)(1)(A)(i) or any other section of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. Contributions to your organization are not deductible under section 170 of the Code.

You have the right to appeal this ruling if you think it is incorrect. To appeal, you should submit a statement of your views with a full explanation of your reasoning. To appeal, please refer to the enclosed Publication 892.

If you do not appeal this proposed ruling within 30 days from the date of this letter, this action will become final. This may be considered by the Internal Revenue Service as a failure to exhaust Available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

In accordance with Code section 6104(c), we are notifying the appropriate State officials of this proposed action.

Sincerely yours,

[REDACTED]
District Director

Enclosure:
Publication 892